

FILED

MAR 17 2011

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
) No.
 STEVEN P. GARTENBERG,)
)
 Defendant.)

INDICTMENT

COUNT ONE

The Grand Jury charges:

A. Introduction

1. During the time of this indictment, defendant Steven P. Gartenberg did legal work as attorney for the following clients:

- a.) M.M. / The estate of M.M.
- b.) I.M. as guardian and conservator
- c.) L.H.A. / L.H.A. irrevocable trust as trustee
- d.) M.J. (DBA MJ Investment Company)
- e.) F.A. (DBA LaTodd Properties, LC)

and others known and unknown to the grand jury.

B. The M.M. Estate

2. In or around 2000, Defendant Gartenberg created M.M.'s living trust. M.M. appointed P.K. as M.M.'s personal representative. In or around February 2009, M.M.

died, and P.K. was to distribute assets to beneficiaries per the directions of the trust.

3. P.K. hired defendant Gartenberg to assist her with estate distributions as well as any probate issues regarding M.M.'s trust. Between in or around February 2009 and July 2009, P.K. turned over in excess of \$411,000 of M.M.'s estate money to defendant Gartenberg. During this time, defendant Gartenberg either diverted the funds to Gartenberg Law Firm, PC and/or converted them for his own personal use. A portion of the funds was supposed to be used to pay the following designated beneficiaries:

- a.) Kirkwood United Methodist Church
- b.) Alzheimer's Association
- c.) Nancy Breihan
- d.) Felicia Breihan
- e.) Rachelle Goebel

4. In June 2009, defendant Gartenberg, at the direction of P.K., mailed a letter falsely and fraudulently confirming distributions to the aforementioned beneficiaries when he had in fact fraudulently diverted and/or converted the monies for his own use.

5. The total embezzlement/fraud loss figure to the M.M. estate was in excess of \$100,000.

C. The I.M. Guardianship/Conservatorship

6. On or about March 7, 2007, the St. Louis County Probate Court authorized the appointment of defendant Gartenberg as guardian and conservator for I.M. At the time, I.M. had been adjudicated mentally incapable of managing her assets and day-to-day financial affairs. As guardian and conservator, defendant Gartenberg controlled I.M.'s bank accounts, and was

responsible for making payments toward I.M.'s living expenses and maintenance. Defendant Gartenberg was required by the St. Louis County Probate Court to submit an annual statement accounting for all bills paid along with all associated receipts. Defendant Gartenberg was also required to post a surety bond while serving as guardian and conservator for I.M. He did so through a company called The Bar Plan Surety and Fidelity Company (The Bar Plan).

7. On or about June 23, 2009, the court removed defendant Gartenberg as guardian due to his failure to account for all expenditures. The court then appointed the public administrator as the new conservator. The administrator filed a Petition to Determine Liability in the Estate, and identified irregularities in defendant Gartenberg's spending.

8. Subsequent to defendant Gartenberg's removal, The Bar Plan, which held the surety bond in the matter, had its attorney assist with the accounting of defendant Gartenberg's spending from the estate. The attorney determined that defendant Gartenberg made in excess of \$200,000.00 in unapproved withdrawals from I.M.'s bank accounts through fraud, embezzlement and theft. Some, if not all the embezzled amount, has been reimbursed to the estate by The Bar Plan.

D. The F.A. and S.A. (LaTodd Properties, LC) and M.J. Collection Money / L.H.A. Trust

9. Between 2004 - 2005, defendant Gartenberg made amendments to the L.H.A. Trust and created and executed L.H.A.'s will. One of the amendments named defendant Gartenberg as successor trustee upon L.H.A.'s death.

10. During 2006-2007, defendant Gartenberg represented F.A. (DBA LaTodd Properties, LC) in a collection action against three individuals related to a promissory note.

11. In or around September 2006, the Court approved a consent judgment by which two of the individuals would pay the sum of \$24,000 to settle the F.A. (LaTodd Properties, LC) collection matter.

12. In or around October 2006, defendant Gartenberg collected the judgment money on behalf of F.A. (LaTodd Properties, LC). Instead of paying his client, however, defendant Gartenberg falsely and fraudulently converted the money for his own use.

13. During 2007, defendant Gartenberg represented M.J./ M.J. Investment Company in a collection action against an individual related to rent owed.

14. In or around September 2007, defendant Gartenberg obtained a garnishment of \$19,641.61 in satisfaction of the debt the individual owed his client M.J. / M.J. Investment Company. Instead of paying his client, however, defendant Gartenberg falsely and fraudulently converted the money for his own use.

15. In or around September 2007, L.H.A. died and per the Trust, defendant Gartenberg became the trustee.

16. In or around November 2007, defendant Gartenberg paid F.A. (LaTodd Properties, LC) and M.J. / M.J. Investment Company the monies owed for their collection cases. However, he paid both clients with funds falsely and fraudulently obtained from the L.H.A. Trust.

17. On or about November 16, 2007, in the County of St. Louis, in the Eastern District of Missouri,

STEVEN P. GARTENBERG,

the defendant herein, for the purpose of executing the above described scheme to defraud and to obtain money and in attempting to do so, did knowingly mail and cause to be delivered by the U.S. Postal Service according to the directions thereon, mail matter consisting of a check drawn on the Gartenberg Law Firm PC, Attorneys at Law bank account at Frontenac Bank, St. Louis County, payable to F.A., St. Louis, Missouri in the amount of \$16,008.00 representing money obtained in a settlement for a civil claim; however, said money falsely and fraudulently coming from the L.H.A. Trust.

In violation of Title 18, United States Code, Sections 2 and 1341.

COUNT TWO

1. The Grand Jury realleges and incorporates herein paragraphs 1 through 16 of Count One.

2. The Grand Jury further charges:

On or about November 28, 2007, in the County of St. Louis, in the Eastern District of Missouri,

STEVEN P. GARTENBERG,

the defendant herein, for the purpose of executing the above described scheme to defraud and to obtain money and in attempting to do so, did knowingly mail and cause to be delivered by the U.S. Postal Service according to the directions thereon, a check drawn on the I.M./Steven P. Gartenberg checking account at Frontenac Bank, St. Louis, Missouri made payable to State Farm Bank, P.O. Box 23025, Columbus, Georgia 31902 in the amount of \$22,000.00, said check being money belonging to I.M. that defendant Gartenberg falsely and fraudulently took by fraud to pay a Gartenberg personal credit card bill.

In violation of Title 18, United States Code, Sections 2 and 1341.

COUNT THREE

1. The Grand Jury realleges and incorporates herein paragraphs 1 through 16 of Count One.

2. The Grand Jury further charges:

On or about June 29, 2009, in the County of St. Louis, in the Eastern District of Missouri,

STEVEN P. GARTENBERG,

the defendant herein, for the purpose of executing the above described scheme to defraud and to obtain money and in attempting to do so did knowingly mail and cause to be delivered by the U.S. Postal Service according to the directions thereon, a letter, signed by defendant Gartenberg, from The Gartenberg Law Firm, PC, 1600 South Brentwood Boulevard, Suite 500, St. Louis, Missouri to R.K. and P.K., Chesterfield, Missouri falsely and fraudulently representing defendant Gartenberg had made trust payments to designated beneficiaries, when in fact he had converted said funds for his own personal use.

In violation of Title 18, United States Code, Sections 2 and 1341.

A TRUE BILL.

FOREPERSON

RICHARD G. CALLAHAN
United States Attorney

MICHAEL W. REAP, #9156
Assistant United States Attorney